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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/021,470	10/30/2001	Bruce A. Kalandek	1183	4868

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BREED TECHNOLOGIES, INC  
PATENT DEPARTMENT  
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EXAMINER
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SLITERIS, JOSELYNN Y

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 09/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/021,470

Applicant(s)

KALANDEK ET AL.

Examiner

Joselynn Y. Sliteris

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 3-5 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-10 is/are allowed.
- 6) ☒ Claim(s) 1 and 11 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 19 June 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Acknowledgement*

1. Examiner acknowledges receipt of applicant's Information Disclosure Statement and Amendment (entered 5/16/03 & 6/19/03).

### *Election/Restrictions*

2. Applicant's election of Species I, Figs. 1-3 in Paper No. 6 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
3. Claims 3-5 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 4 and 6.

### *Claim Rejections - 35 USC § 112*

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
- ✓ 6. Regarding claim 11, the recitation "the moving anchor" in line 10 lacks proper antecedent basis in the claim.

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7. Regarding claim 11, the use of "its" in line 11 is improper.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Brantman et al. (U.S. Patent 5,924,723).

10. Regarding claim 1, Brantman discloses a side impact air bag curtain apparatus as in the present invention comprising:

an inflatable air bag 48, the air bag including at least one movable air bag anchor 66 at an end of the air bag; and

a force-directing member or guide 68, 70, 92 fixedly mounted at a determinable orientation within the vehicle, wherein upon inflation of the air bag, the air bag moves to the deployed condition causing the movable anchor to slide down the force-directing member so that upon inflation of the air bag the movable anchor is self located in or near a center of the force-directing member resisting any tendency of the curtain to move or be moved upwardly (Fig. 4).

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11. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Peer et al. (U.S. Patent 6,474,681).

12. Regarding claim 1, Peer discloses a side impact air bag curtain apparatus as in the present invention comprising:

an inflatable air bag 14, 14a, 14b, the air bag including at least one movable air bag anchor 100, 100a, 100b at an end of the air bag; and

a force-directing member or guide 70, 70a, 70b fixedly mounted at a determinable orientation within the vehicle, wherein upon inflation of the air bag, the air bag moves to the deployed condition causing the movable anchor to slide down the force-directing member so that upon inflation of the air bag the movable anchor is self located in or near a center of the force-directing member resisting any tendency of the curtain to move or be moved upwardly (Figs. 13, 14).

13. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Tesch et al. (U.S. Patent 6,454,296).

14. Regarding claim 1, Tesch discloses a side impact air bag curtain apparatus as in the present invention comprising:

an inflatable air bag 40, the air bag including at least one movable air bag anchor 56 at an end of the air bag; and

a force-directing member or guide 54 fixedly mounted at a determinable orientation within the vehicle, wherein upon inflation of the air bag, the air bag moves to the deployed condition causing the movable anchor to slide down the force-directing member so that upon inflation of the air bag the movable anchor is self located in or

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near a center of the force-directing member resisting any tendency of the curtain to move or be moved upwardly (Figs. 3, 4).

### ***Response to Arguments***

15. Applicant's arguments filed 6/19/03 have been fully considered but they are not persuasive.

16. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the movable anchor becoming self located at a preferred location in the bar by virtue of the angled shape of the bar as the air bag constricts in size as it inflates) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Allowable Subject Matter***

17. Claims 6-10 are allowed.

18. Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

19. Claim 11 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

***Conclusion***

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joselynn Y. Sliteris whose telephone number is 703-308-8225. The examiner can normally be reached on Mon-Fri 8:30 am - 6:00 pm; alternating Fri off.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul N. Dickson can be reached on 703-308-2089. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-2571 for regular communications and 703-305-7687 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1134.

JYS

September 8, 2003

  
PAUL N. DICKSON  
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